

BEFORE THE MINNESOTA PUBLIC UTILITIES  
COMMISSION  
Suite 350  
121 Seventh Place East  
St. Paul, MN 55101-2147

LeRoy Koppendrayner  
Phyllis Reha  
Marshall Johnson  
Gregory Scott  
Kenneth Nickolai

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Request by Eschelon  
Telecom for an Investigation regarding  
Customer Conversion by Qwest and  
Regulatory Procedures

Docket No. P-421/C-03-616

**ESCHELON'S SUPPLEMENTAL COMMENTS REGARDING  
COMPLIANCE FILING OF QWEST CORPORATION**

Eschelon Telecom, Inc. ("Eschelon") submits these Supplemental Comments Regarding the Compliance Filing of Qwest Corporation dated August 29, 2003 ("Compliance Filing"). Eschelon provides additional information that was not available at the time Eschelon's Reply Comments were due. Although Qwest suggests in its Compliance Filing that its existing practices adequately address the problem of improper Wholesale-Retail contacts and winback activity, another example has occurred since then.

Enclosed is the Qwest repair history for an Eschelon business customer who had trouble on its line. *See* Attachment 8.<sup>1</sup> Qwest makes this history available to Competitive Local Exchange Carriers ("CLECs") through a repair interface known as

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<sup>1</sup> Attachments 1-6 were enclosed with Eschelon's previous filings in this matter. Eschelon distributed Attachment 7 (entitled "Qwest Admissions in Five Documents") during the open meeting on this matter. Therefore, the Attachment here is labeled as Attachment 8.

Customer Electronic Maintenance and Repair (“CEMR”). The Qwest history shows that Eschelon tested the line and then submitted a ticket electronically (through CEMR) to the Qwest repair center. Per Qwest’s process, Eschelon contacts the same repair center (*i.e.*, the same Qwest personnel and processes) regardless of the state in which the trouble occurs.<sup>2</sup> The history shows that Qwest conducted a test and then dispatched a Qwest technician to the Eschelon customer premises. *See* Att. 8. Although the technician is employed by Qwest, the technician went to the customer premises in a wholesale capacity to make a repair on behalf of Eschelon (and Eschelon pays Qwest for that service through rates approved by this Commission).

The Qwest closing notes in the repair history for this ticket shows that Qwest took the following action when closing the ticket:

NAR GDS SUB MVD TO [Redacted], **RFD TO BO FOR WINBAC**  
10 DNT=**09-22-03 247P** EC=899 ST=CLO RTE=00000899 WP=NWP  
RSL=  
NAR GDS **SUB MVD2 [Redacted] ,RFD2BO4WINBACK,TV 510**

*See* Attachment 8.

These Qwest notes (in bold with underlining) clearly show a Qwest wholesale referral (“RFD”) to the Qwest Retail business office (“BO”) for the purpose of winning back a customer from a competitor.<sup>3</sup> The end-user customer is an Eschelon customer. Qwest knows of the trouble only because of its role as a wholesale vendor to Eschelon. Eschelon is Qwest’s customer in this case. Nonetheless, the Qwest wholesale

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<sup>2</sup> *See* <http://qwest.com/wholesale/clecs/escalations.html>. Although this particular customer is in Arizona, therefore, the process is the same across states, including Minnesota.

<sup>3</sup> In this case, a Qwest representative chose to record the winback referral in written documentation accessible to CLECs. A bad result would be for the practice to continue while the documentation is no longer be available to CLECs. The end result should be to stop the practice, not to make it more difficult to discover and prove. Qwest has said it disciplines representatives that engage in such conduct. While representatives may need training and/or discipline, they should not suffer simply for having documented the activity. Without the documentation, the practice would continue but not be discovered.

representative took confidential information belonging to Eschelon at a critical time in Eschelon's relationship with its customer and used it to attempt to benefit Qwest Retail.<sup>4</sup> Qwest's conduct is illegal.

In addition, this conduct should have been prevented by procedures that Qwest claims it either had in place or put in place as a result of the Commission's Order in this matter requiring Qwest to implement "procedures for ensuring that retail service representatives are properly separated from the Company's wholesale operations." *See* Order Finding Service Inadequate and Requiring Compliance Filing, Docket No. P-421/C-03-616, p. 9, ¶ 1(a) (July 30, 2003) ("Order"). The goal was to "separate" wholesale from retail on these issues. In its Compliance Filing, Qwest discusses procedures for training retail representatives, but not wholesale representatives. Quite a loophole exists if Qwest can avoid the rule by simply having Qwest Wholesale cause the contact with Qwest Retail instead of the reverse. In any event, there is no indication in the repair history that the Retail representative in the Qwest business office (who has allegedly received adequate training) objected to this winback referral resulting from wholesale activity or reported it so that proper action could be taken with the wholesale representative.

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<sup>4</sup> In this case, the Qwest closing comment referring to a winback concludes with the notation "TV 510." Qwest should indicate whether this information (or other information in the history) identifies the Qwest representative who entered this remark and whether that representative did so with the expectation of being rewarded if the contact resulted in a winback. If so, this may suggest that there is a formal or informal understanding at Qwest that representatives will be rewarded for helping to winback customers in this manner.

With its Order, the Commission gave Qwest an opportunity to persuade the Commission that the multiple problems that occurred in this case would not occur again. This additional evidence of improper use of wholesale information for winback activity demonstrates that Qwest has more work to do. As indicated in Reply Comments filed by the Department of Commerce as well as Eschelon, Qwest's "proposals" in its Compliance Filing were short on specifics as to what Qwest plans to do.

Dated: September 24, 2003

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**ATTACHMENT 8**  
**EXCERPT FROM QWEST REPAIR HISTORY FOR CEMR TICKET NO.**  
**0297117**

(with emphasis and footnotes added and  
confidential/trade secret customer-identifying information redacted)

Non Design Circuit DLETH History

Circuit ID : [Redacted]

DLETH EC 666 TN [Redacted]      DPA 0   LD 01-01-69 HD 09-23-03 PRTR

LN RBA07[Redacted]

SA [Redacted]

LOC

---HIST---

NO REPORT      S   CLEARED      CLOSED   TST RPM SWK RSL T   D  
C

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1 09-22-03 1159A 0 09-22-03 247P 09-22-03 353P 0 510 0 0 407 1006  
600

LN - RBA07[Redacted]; REA CAT 1

01 DTR=09-22-03 1159A COM=09-22-03 700P RSA=666   O/S=Y EXC=N

    CALLED-NO=   -   -   CATEGORY=1 VER=LU CVER=

*NAR CBC OOS MED ESCHELON@@CBC RCOM RNA TIC YES MLT  
SHOWS, OPEN IN CABLE, DPO*

*NAR EPAIR,CLBK, REFUSE COMMIT*

*NAR A      B      JEFFREY J BELLIN8886069446<sup>5</sup>*

02 DNT=09-22-03 1159A EC=666 ST=PSM RTE=00000000 WP=NWP  
RSL=LU

NAR

03 DNT=09-22-03 1201P EC=299 ST=PSH RTE=00000299 WP=NWP  
RSL=LU

NAR      760AVLUT100-499,600-899N

DLETH EC 666 TN [Redacted]      DPA 0   LD 01-01-69 HD 09-23-03 PRTR

04 DNT=09-22-03 1204P EC=256 ST=PDB RTE=00000997 WP=SCR  
RSL=100

NAR      **DISP BUS OOS OPEN OUT IN CABLE-NDT 500-1000' FROM STA-  
WF<sup>6</sup>**

<sup>5</sup> These notes in italics show that Eschelon tested the line and then called the Qwest repair center.

<sup>6</sup> These notes in bold show that Qwest conducted a test and then dispatched a Qwest technician to the Eschelon customer premises.

05 DNT=09-22-03 1205P EC=256 ST=PDB RTE=00000256 WP=NWP RS  
L=100  
NAR DISP BUS OOS OPEN OUT IN CABLE-NDT 500-1000' FROM STA-  
WF  
06 DNT=09-22-03 1206P EC=899 ST=PRD RTE=00000510 WP=NWP RSL=  
NAR GDS PREASSIGNED FOR WORK TODAY 09-22-03 1230P  
07 DNT=09-22-03 1206P EC=899 ST=DPO RTE=00000510 WP=NWP  
RSL=  
NAR GDS JOB DISPATCHED BY DO 09-22-03 0124P  
08 DNT=09-22-03 124P EC=899 ST=DPO RTE=00000510 WP=DO RSL=  
NAR GDS DO-PROVIDED DISPATCH START TIME  
09 DNT=09-22-03 247P EC=510 ST=CCA RTE=00000899 WP=CRO RSL=  
NAR GDS SUB MVD TO [Redacted],**RFD TO BO FOR WINBAC**<sup>7</sup>  
10 DNT=**09-22-03 247P** EC=899 ST=CLO RTE=00000899 WP=NWP RSL=  
NAR GDS **SUB MVD2 [Redacted]**,**RFD2BO4WINBACK**,TV 510,<sup>8</sup>  
NAR CLEC = A07 REBUNDLE QWEST RESALE/INTE  
LAST CLIP DATE - 0-

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<sup>7</sup> These notes in bold with underlining show a Qwest referral to the Qwest business office ("BO") for winback.

<sup>8</sup> These notes in bold with underlining show a Qwest referral to the Qwest business office ("BO") for winback.